

\*\*\*NOT INTENDED FOR PUBLICATION\*\*\*

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO  
Bankruptcy Judge Elizabeth E. Brown

In re:	)	
	)	
TRACY DAWN HENSINGER,	)	Bankruptcy Case No. 06-11319 EEB
	)	
	)	Chapter 7
	)	
Debtor.	)	

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ORDER

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THIS MATTER having come before the Court *sua sponte*, following the Debtor's filing of her Certificate of Financial Management Course (the "Certificate"), and the Court being otherwise advised in the premises, hereby

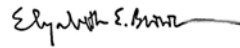
FINDS that the Certificate has been filed prematurely. Bankruptcy Rule 1007(c) states in relevant part that it is to be filed "within 45 days *after* the first date set for the meeting of creditors under § 341 of the Code in a chapter 7 case. . . ." (emphasis added). It is rare, and surely discouraging to debtors, that the Court should penalize a debtor for doing something too promptly, but unfortunately this new rule as written requires this Court to find that the Certificate was filed too soon in this case. The Court wishes it could explain to the Debtor why the new rule prohibits a filing before the creditors' meeting. Perhaps the drafters intended to say that the Certificate should be filed no later than 45 days after the meeting. But they used the language "no later than" in the remaining part of the sentence in reference to when it must be filed in a Chapter 13 case; they did not employ it in the language pertaining to a chapter 7 filing.

FURTHER FINDS that the Certificate reflects that the Debtor took the financial management course on March 28, 2006, one day *before* filing for bankruptcy. 11 U.S.C. § 727(a) states in pertinent part that the court "shall grant a discharge, unless . . . (11) *after* filing the petition, the debtor failed to complete an instructional course concerning personal financial management . . . ." (emphasis added). The Court could construe this language to require a post-bankruptcy course. In this case, it would mean that the Debtor would need to retake the course. The language, however, is ambiguous as to whether it requires a post-petition course or whether it merely states that no discharge will enter unless the debtor has completed the a course. The Court has not undertaken a study of any legislative history of this portion of the statute, but the Court cannot perceive of any policy reason for prohibiting a pre-petition financial management course. There is no suggestion that this Debtor failed to do both credit counseling and financial management training. Accordingly, it is hereby

ORDERED that the Certificate shall be deemed stricken and the Debtor shall be required to re-file it at a later date in accordance with Bankruptcy Rule 1007(c). Absent a timely interposed objection to discharge under Section 727(a)(11) by a party in interest, the Court will not *sua sponte* prevent the entry of discharge due to the fact that the Debtor took her course pre-petition.

DATED this 6th day of April, 2006.

BY THE COURT:



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Elizabeth E. Brown, Bankruptcy Judge